

In-State Tuition



According to the National Conference for State Legislature: "Immigrant families tend to fall in the lower income brackets, which means that the cost of college factors heavily in their children's ability to attend. Provision of tuition at in-state rates to those who meet residency and tax criteria could go a long way to allowing these students to contribute to their maximum potential as productive members of the community" (*National Conference of State Legislature 2004*).

According to the American Association of State Colleges and Universities (AASCU): "AASCU does not condone disregards for the nation's immigration laws, but believes that the current laws discouraging or denying resident status to qualified alien students—who are here-through no decision of their own—rebut our heritage as a nation of immigrants and ignore a vital source of human capital for the New Economy" (*AASCU public policy agenda 2003*).

Background

In 2002, the Utah State Legislature passed HB144 sponsored by former Rep. David Ure. It allows non-immigrant students to be exempt from paying non-resident tuition at institutions of higher education. The requirements to qualify for HB144 are:

- Attended a high school in Utah for three or more years.
- Graduated from a Utah high school or received the equivalent of a Utah high school diploma.
- Registered as an entering student at an institution of higher education not earlier than Fall of the 2002-2003 academic year.
- Students without lawful immigration status shall file an affidavit with the institution of higher education stating the student has filled an application to legalize his/her immigration status, or will file an application as soon as he/she is eligible to do so.

During the floor debate, an amendment was included in the final version of the bill: "*If allowed under federal law.*"

In October 2002, the Attorney General's Office issued a letter stating it was valid and permissible for Utah's higher education institutions to implement HB144 prior to the passage of federal law.

In the past three legislative sessions, Rep. Glenn Donnelson (R-Weber) sponsored legislation to repeal HB 144. He contends federal law has not been passed, and consequently there is a possibility for litigation against the state of Utah.

• 2007 Legislative Session

Rep. Glenn Donnelson (R-Weber) is sponsoring HB 224- *Repeal of Exemption from Nonresident Tuition* to repeal HB144.

• In Utah, a total of 182 (2005-2006) students are receiving exemption from non-resident tuition HB144 (Office of the Commission for Higher Education).

• Kansas Case

On July 5, 2005, U.S. District Judge Richard D. Rogers from Kansas dismissed the lawsuit challenging the state's in-state tuition for non-immigrant students law.

Currently, the case has been submitted to the U.S. Court of Appeals for the Tenth Circuit. There is no set date for a hearing as the case is pending in briefing.

• California Case

On October 6, 2006, the Superior Court of the State of California dismissed the lawsuit challenging the state's in-state tuition for non-immigrant students law.

On both cases Mr. Kris W. Kobach has appeared representing the plaintiffs. Mr. Kobach is an attorney for the Federation for American Immigration Reform (FAIR).

Currently nine other states (Texas, California, New York, Oklahoma, Washington, Kansas, Illinois, New Mexico and Nebraska) have enacted similar laws.